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THE CODE OF MOSES AND THE CODE OF HAMMURABI.

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THE spade has brought to light many important finds during the past half-century. Few surpass in interest and importance the law-book of Hammurabi. It was discovered in Susa, the capital of Elam, by the French explorers de Morgan and Scheil, while excavating during the months of December, 1901, and January, 1902. It has now been edited by Scheil¹ in a handsome volume, with a translation in French, a transcription of the cuneiform text, and a photograph of the inscription. Hammurabi was the sixth king² of the first Babylonian dynasty. He ruled about 2250 B. C. and was the first king of a united Babylonia. He was, indeed, the real founder of Babylon and the Babylonian empire. Hammurabi was not only a great warrior, but also a distinguished statesman, who did much for the internal improvements of the land, as his inscriptions³ show. His interest in literature is seen by his preserving in Babylon the best products of the old Sumerian culture. His capital became a home of scholars whose influence was far-reaching. Indeed, we may call Hammurabi's reign the Augustan age of Babylonian literature. He showed a deep interest in the religious welfare of his empire by repairing old temples and building many new ones, by caring for the statues of the gods, and by regulating the revenues of the sanctuaries. Hammurabi must be considered one of the great rulers of the world. The epithets which he attributes to himself in the prologue and epilogue of the code seem to be well

¹SCHEIL, *Textes élamites-sémitiques*, Vol. IV. German translation by HUGO WINCKLER; English, by C. H. W. JOHNS, and just now by ROBERT FRANCIS HARPER.

²GOODSPEED, *History of the Babylonians and Assyrians*; ROGERS, *History of Babylonia and Assyria*.

³JENSEN, *Keilinschriftliche Bibliothek*, Vol. III; KING, *The Letters and Inscriptions of Hammurabi*.

deserved: "the weal-bringing shepherd whose scepter is upright," "the good shadow spread over his city," "one who is like a father to his subjects."

The old law-book was found on the acropolis at Susa, more than two hundred miles southeast of Babylon. It originally stood in the temple of the sun-god Shamash at Sippar, on the Euphrates northwest of Babylon. It was probably carried away by some Elamite conqueror and deposited in his capital at Susa as a trophy of his victory over Babylon. The laws are inscribed on a diorite stele about eight feet high. The upper part contains a picture in relief of the sun-god Shamash in the act of giving the laws to the king, who stands in a reverent attitude. Then follow the laws, covering both sides of the stone slab. Part of them have been erased by the Elamite conqueror, but probably nine-tenths remain, numbering nearly two hundred and fifty provisions. All are very legible. The character used is the old Babylonian cuneiform, which differs a good deal from that employed by the later kings of Assyria and Babylonia in their inscriptions. The laws in the code are undoubtedly much older than Hammurabi's time. They express the decisions of the judges on the various cases coming before them in the course of centuries. It is the great merit of Hammurabi to have collected the most important of these decisions, and to have had them inscribed on the slab found in Susa. Probably copies were set up in various parts of his empire so as to facilitate the rendering of justice. Indeed, the code expressly says that a copy was set up in the temple Esagila, in Babylon. All translations must at first be in some degree tentative, for the laws contain certain phrases and expressions not fully understood, but which future study will illumine.

The code covers a great variety of topics, as the following brief analysis will show: 1-5, concerning unprovable accusations; 6-14, theft; 15-20, assisting the flight of slaves; 21-25, burglary and robbery; 26-41, the conditions of substitution in war time and the regulations about royal property held by soldiers; 42-52, difficulties arising in renting out farm land; 53-58, the liability of a farmer who neglects his water dams, and of a shepherd

who allows his flock to pasture on the field of another ; 59, unlawfully cutting down trees ; 60-65, the cultivation of leased land (here follows a blank made by chiseling out part of the laws) ; 100-107, the relations of a commission merchant to a wholesale merchant ; 108-11, the business of a woman who keeps a tavern ; 112, the embezzlement of intrusted goods ; 113, the illegal method of a creditor seeking payment ; 114-19, concerning liability ; 120-26, the loss of a deposit ; 127-36, matrimonial laws ; 137-43, the ejection of a wife and divorce ; 144-49, difficulties arising in the household from concubines ; 150-52, the marriage dowry ; 153, crime of a woman who for the sake of another murders her husband ; 154-58, incestuous unions ; 159-61, breach of promise ; 162-64, apportionment of dowry after death of wife ; 165-77, the inheritance of sons in polygamous relations ; 178-82, the inheritance of priestesses ; 183, 184, treatment of daughters of concubines ; 185-94, the law of foster and adopted children ; 195-214, offenses against limb and life ; 215-25, successful and unsuccessful operations of doctors and veterinary surgeons ; 226, 227, the sign of a slave unlawfully imprinted ; 228-33, the liability of a negligent builder ; 234-40, the rights and duties of a shipbuilder and a sailor ; 241-52, the service of rented animals, and the injury which they cause or suffer ; 253-77, the rights and duties of workmen ; 277-82, the selling of slaves.

The code is a body of criminal and civil law, but the civil preponderates. In general, the laws touching a certain subject are grouped together and are closely related. The various provisions give a vivid insight into the commercial, social, domestic, and moral life of the period. The regulations respecting compensation, the amounts paid for various kinds of renting, the wages for different classes of servants, the fees paid to physicians and veterinary surgeons, show a very high civilization. The laws pertaining to marriage tend to enforce monogamy. There were laws securing humanity toward slaves and the creatures below man. The punishments include drowning, burning, cutting off the tongue, ear, and hands, flogging, branding, banishment, and expulsion from home, as well as various kinds of fines. These are severe, but are meant to be strong measures against the various

crimes. With the exception of professional lawyers, we find all the machinery of a modern law court, including judges, witnesses, and evidence. Probably each person pleaded his own case. Every effort seems to have been made to obtain justice. Very strong measures were taken against judges who were bribed to give a decision. The code of Hammurabi compares most favorably with the legal systems of Greece and Rome. It is by far the most important document yet found in revealing the high civilization existing in Babylonia as early as 2250 B. C.—almost a thousand years before the time of Moses. The code continued in force down to the latest period, for in the museums of Berlin and London there are tablets from the time of Nabonidus, 538 B. C., which contain some of these same laws.

What makes the code of Hammurabi of unusual interest is its relation to the Old Testament. The most cursory reader cannot fail to see many resemblances and similarities. The king, Hammurabi, who had the laws codified, is no other than Amraphel,⁴ mentioned in the fourteenth chapter of Genesis. This gives us a date for Abraham about 2250 B. C. This is probably the first date in the Old Testament that can be fixed with approximate certainty. The original home of Abraham was Ur of the Chaldees, southwest of Babylon, on the right bank of the Euphrates. This city, sacred to the moon-god Sin, is mentioned in the code of Hammurabi, "who makes Ur rich." The king had evidently done much for Ur to make it prosperous. Other inscriptions of Hammurabi prove that Susa, the capital of Elam, was originally a Babylonian city and governed by satraps from Babylon. There was probably a large Semitic population in it which spoke a Semitic tongue, namely Babylonian. Only later, when Babylon declined, was Susa ruled by non-Semitic princes. This explains why, in Gen. 10: 22, Elam is called a son of Shem.

Some of the sections in the Hammurabi code consist of groups of five laws, pentads, and of ten laws, decads; *cf.* 1-5, 21-25, 154-58, 178-82, 278-82, 127-36, 195-204. This raises the interesting question whether or not in old Babylonia the laws were

⁴So Schrader, Sayce, Hommel, Winckler, Delitzsch, Lehmann, Driver, and most scholars.

not originally grouped in pentads or decads, as aids to the memory. Each law would correspond to a finger of the hand. This old custom may have influenced the grouping in Exod., chap. 20, where we have the Ten Commandments, the decalogue, because we have ten fingers. It is noticeable today that children, in memorizing the Ten Commandments, often use their fingers as mnemonic aids.

Many examples are found in the Hammurabi code of the accused one swearing before God for the purpose of declaring his innocence; *cf.* 20, 103, 107, 131, 206, 227, 249, 266. The same practice is found in Exod. 21:8, 9. The expression *maḥar ilim* used in the one code is exactly that used in the other, viz., **אל האלהים**. and both mean "before God." As in the biblical, so in the Babylonian, laws a distinction is made between acts done intentionally or unintentionally; *cf.* 206, 227, and Exod. 21:13; Deut. 4:19; Josh. 20:3.

The use of ordeal, so common in the Middle Ages, is mentioned twice in Hammurabi's laws (2 and 132). The accused was thrown into a river called God's river (*ilu naru*). If he was drowned, that would be a sign of his guilt; but if he survived, his innocence was proved. Only once in the Old Testament do we meet with trial by ordeal, where a woman suspected of infidelity is made to drink a compound of holy water and dust (Numb. 5:11-31). It may be⁵ that *en mishpat* = "well of judgment," and *mē meribah* = "waters of contention" (Numb. 20:13; Gen. 14:7) were originally places where the ordeal was practiced by throwing the accused into these waters.

The punishments in the Babylonian laws are in general far more severe than those in the Bible, but for the same offenses the Bible in some cases has the more severe punishment; *cf.* 252 with Exod. 21:29. In the Old Testament there are no examples of tearing out the tongue and eyes, or of cutting off the ears; but we do find one case of cutting off the hand as a punishment (Deut. 25:12).

The idea of solidarity among kindred is found in the Hammurabi code where a son or daughter (23, 24, 156) is put to

⁵ W. R. SMITH, *Religion of the Semites*, 2d ed., p. 181.

death in place of the father. There is even a case where a whole community pays for the loss sustained by one of its members. A similar conception is found in the blood-revenge of the Old Testament as well as in the second commandment.

The prologue in Hammurabi's code begins by describing the god Anu as "god most high" (*ilu širu*). The identical expression is used in Gen. 14:18, "God most high" (*el elyon*). The custom of wives giving their husbands concubines, as in the case of Sarah, Rachel, and Leah (Gen. 16:1-2; 30:4, 9), has an exact parallel in Babylonia (144). As in old Israel the father seeks a bride for his son (Gen. 24:4), so in Hammurabi's empire (156). The form of the laws in the Babylonian code and in the Book of the Covenant (Exod. 20:22—23:19) are similar. In the former the expression is *summa amelum*, which is the exact counterpart of כִּי אִישׁ in the latter. Both expressions mean, "if a man." Each law in both codes is stated with brevity and clearness. Hammurabi believed his code was given to him by the sun-god Shamash. The relief on the top of the stele pictures this idea. Similarly, of the laws in the Old Testament, we read: "And God spake all these words saying" (Exod. 20:1).

[To be completed in the next number.]